

Human Rights *in British Columbia*

April 2003

HARASSMENT

The British Columbia Human Rights Code protects our human rights in three main areas:

1. Employment.
2. Tenancy and purchase of property.
3. Accommodation, services and facilities customarily available to the public.

The BC Human Rights Code covers all provincially regulated businesses and agencies. This includes all the ministries of the provincial government, local and municipal governments, schools and universities, hospitals and medical clinics, and private businesses such as stores, restaurants, and rental accommodation.

(There is also a Canadian Human Rights Commission which deals with federally regulated agencies and businesses.)

What is harassment?

Harassment in the workplace may be broadly defined as unwelcome conduct related to a prohibited ground of discrimination that detrimentally affects the work environment or leads to adverse job-related consequences for those experiencing harassment.

Harassment is a demeaning practice. Harassment in the workplace requires an employee to contend with unwelcome and offensive behaviour. It attacks the dignity and self-respect of the victim both as an employee and as a human being.

Harassment because of a ground listed in the Human Rights Code is a form of discrimination and is prohibited by the Code.

Landlords and service providers are also required to provide a harassment free environment for their tenants and customers.

Types of Unlawful Discrimination and Harassment

The Human Rights Code makes discrimination and harassment on the basis of the following characteristics unlawful:

- Race
- Colour
- Ancestry
- Place of Origin
- Age (covers only those 19 years and older and less than 65 years old)
- Sex (which includes pregnancy, breastfeeding, and sexual harassment)
- Physical or mental disability (which includes HIV/AIDS and drug or alcohol addiction)
- Sexual orientation (being gay, lesbian, straight or bi-sexual)
- Criminal conviction (employment only)
- Political belief (employment only)
- Lawful source of income (tenancy only)
- Religion
- Marital status
- Family status

Harassment can take many forms

Depending on whether the behaviour is welcome or not, any of the following could amount to harassment:

- material that is displayed publicly or put in someone's workspace and that is racist, sexist, sexually explicit, anti-gay or lesbian, or insulting because of any of the prohibited grounds of discrimination;
- verbal abuse or comments that belittle people because of sex, pregnancy, race, sexual orientation, disability, or other ground of discrimination;
- unwelcome and hurtful jokes based on gender, race, marital status, sexual orientation, disability, or other ground of discrimination.
- sexually or racially offensive gestures;
- ignoring, isolating or segregating a person because of sex, race, sexual orientation, etc.;

(Harassment can take many forms, cont'd.)

- staring or leering in a sexual manner;
- physical contact of a sexual nature;
- aggressive physical contact;
- repeated behaviour which a person has objected to and, therefore, is known to offend.

A person may experience harassment which consists of harmful remarks about the person's race or sex or another of the prohibited grounds. Harassment may also take the form of non-specific insults, work sabotage, rumour, or crude jokes which in themselves have no sexual or racial content. However, if the negative actions are occurring because of the person's sex or race (or other prohibited ground) then the behaviour is a type of harassment and is prohibited by Human Rights Code.

If you are being harassed

- Let the person know their behaviour is making you uncomfortable and you want it to stop.
- Talk about the harassment to co-workers, or other tenants or students.
- Keep a record of what happened and when; write down exactly what was said or done.
- Report the harassment to your supervisor or other management personnel or faculty.

Taking action to end harassment can be more difficult if you live in a small community, or if you have difficulty with English. You should think about contacting a women's centre, aboriginal organization or immigrant-serving agency for support.

What legal options do you have to complain about harassment?

You have a number of legal options to complain about harassment. You can choose one or more of these options:

- Use an internal complaint procedure.
If your company or school or university has a policy against sexual harassment, check to see if it has a complaint procedure. If there is no complaint procedure, you may want to ask the personnel manager or student counsellor what steps to take.
- Use the union procedure.
Talk to your shop steward about how the union deals with harassment.
- File a complaint with British Columbia Human Rights Tribunal.

What are an employer's responsibilities?

Employers (and landlords and service providers) are responsible for managing the workplace to provide a harassment free environment.

Sometimes, even though the employer has taken reasonable measures to prevent harassment, a person complains about harassment.

Then, the employer has a responsibility to investigate the complaint and take reasonable action to correct the situation.

What if harassment was not intended?

Harassing actions need not be intentional in order to be prohibited. "It was just a joke," or "I meant it as a compliment" is no excuse under the law. The Code is concerned with the effect of a person's actions on another. People have the right to work and live in a harassment free environment. The first step to protect this right is to tell the person that the actions are offending you and ask the person to stop.

Restructured human rights process:

Recent changes to the Human Rights Code have given the Human Rights Tribunal the sole responsibility for the acceptance, mediation, and adjudication of complaints.

The rights and protections guaranteed under the Code have not been changed.

People who wish to file a complaint should contact the Human Rights Tribunal.

Contacts

Human Rights Tribunal

Suite 1170 - 605 Robson St, Vancouver, BC, V6B 5J3

Phone: (604) 775-2000

Toll Free (in B.C.): 1-888-440-8844

TTY: (604) 775-2021

FAX: (604) 775-2020

www.bchrt.bc.ca

Ministry of Attorney General

10th Fl 1001 Douglas Street

PO BOX 9286 STN PROV GOVT, Victoria V8W 9J7

Phone: (250) 356-9596

Fax: 250-356-7136

TTY: Please call Enquiry BC: 1-800-661-8773

www.ag.gov.bc.ca/programs/hrc/index.htm